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SCHWEGMAN, LUNDBERG &  
WOESSNER/BSC-CRM  
PO BOX 2938  
MINNEAPOLIS MN 55402

**MAILED**

**APR 27 2010**

**OFFICE OF PETITIONS**

|                            |   |                         |
|----------------------------|---|-------------------------|
| In re Application of       | : |                         |
| Von Arx, et al.            | : |                         |
| Application No. 10/025,183 | : | DECISION ON APPLICATION |
| Filed: December 19, 2001   | : | FOR                     |
| Atty Docket No.279.391US1  | : | PATENT TERM ADJUSTMENT  |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed December 28, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred and ten (110) days to one hundred and sixty-seven (167) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred and sixty-seven (167) days** (385 days of Office delay - 218 days of applicant delay). A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

On September 28, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 110 days. Applicants timely filed the instant application for patent term adjustment.<sup>1</sup> Specifically, applicants state that:

Applicants have calculated that correct patent term adjustment as 167 days, which was calculated as follows:

The date that is three months after the Office Action

<sup>1</sup> PALM finance records indicate the issue fee was paid on December 28, 2009.

(Mailed on December 10, 2008) is March 10, 2008. Applicants' compliant response to the first Office Action was received by the USPTO on May 12, 2008. The difference between these two dates is 63 days debit from Applicants' patent term. However, the USPTO has debited from Applicants' patent term the above 63 days twice in the calculations (i.e.,  $63 + 63 + 126$  Days). Additionally, the date that is four months after the Response to the above Office action (Response Received on May 12, 2008) is September 12, 2008. The Notice of Allowance was mailed by the USPTO on September 18, 2008. The difference between these two dates is 6 days credit to Applicants' patent term. However, the USPTO has credited to the Applicants' patent term, the above 6 days twice in the calculations (i.e.,  $6 + 6 + 12$  Days). Omitting the duplications, the PTA now becomes 167 Days instead of 110 Days as calculated in PAIR PTA.

*Excerpt taken from "Statement of Facts under 37 CFR 1.705(b)(2) in Support of Application for Patent Term Adjustment", filed December 28, 2009, pg. 1.*

Applicants' argument is well taken and is supported by a review of the file record. The record supports the conclusion of a duplicate entry of the reduction to the patent term adjustment of 63 days pursuant to 37 CFR 1.704(b) for the filing of a response May 12, 2008, three months and sixty-three days after a non-final Office action was mailed December 10, 2007. Accordingly, the duplicate entry of the period of reduction of 63 days is being removed.

Further, the record supports the conclusion of a duplicate entry of the adjustment to the patent term of 6 days pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2) for the mailing of a Notice of Allowance and Issue Fee Due on September 14, 2009, four months and six days after a response was filed on May 12, 2008. Accordingly, the duplicate entry of the period of adjustment of 6 days is being removed.

The Office acknowledges receipt of the \$200.00 fee as set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

# PALM INTRANET

Time: 08:37:42

| PTA Calculations for Application: 10/025183 |            |                         |     |
|---|------------|-------------------------|-----|
| Application Filing Date:                    | 12/19/2001 | PTO Delay (PTO):        | 391 |
| Issue Date of Patent:                       |            | Three Years:            | 0   |
| Pre-Issue Petitions:                        | 0          | Applicant Delay (APPL): | 281 |
| Post-Issue Petitions:                       | 0          | Total PTA (days):       | 167 |
| PTO Delay Adjustment:                       | 57         |                         |     |

| File Contents History |            |   |     |      |       |
|-----------------------|------------|---|-----|------|-------|
| Number                | Date       | Contents Description                            | PTO | APPL | START |
| 160                   | 04/19/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO            | 57  |      |       |
| 149                   | 09/28/2009 | MAIL NOTICE OF ALLOWANCE                        |     |      |       |
| 148                   | 09/17/2009 | ISSUE REVISION COMPLETED                        |     |      |       |
| 147                   | 09/17/2009 | DOCUMENT VERIFICATION                           |     |      |       |
| 146                   | 09/17/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED |     |      |       |
| 145                   | 09/14/2009 | NOTICE OF ALLOWABILITY                          |     |      |       |
| 144                   | 06/12/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED     |     |      |       |
| 143                   | 06/12/2009 | INFORMATION DISCLOSURE STATEMENT CONSIDERED     |     |      |       |
| 136                   | 06/12/2009 | REFERENCE CAPTURE ON IDS                        |     |      |       |
| 135                   | 07/13/2009 | DATE FORWARDED TO EXAMINER                      |     |      |       |
| 134                   | 06/12/2009 | RESPONSE AFTER NON-FINAL ACTION                 |     | 24   | 128   |
| 133                   | 06/12/2009 | MISCELLANEOUS INCOMING LETTER                   |     |      |       |
| 132                   | 06/12/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |     |      |       |
| 131                   | 06/12/2009 | REQUEST FOR EXTENSION OF TIME - GRANTED         |     |      |       |
| 130                   | 06/12/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |     |      |       |
| 129                   | 06/12/2009 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |     |      |       |
| 128                   | 02/19/2009 | MAIL NON-FINAL REJECTION                        |     |      |       |
| 127                   | 02/17/2009 | NON-FINAL REJECTION                             |     |      |       |
| 126                   | 12/17/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED     |     |      |       |
| 121                   | 12/17/2008 | REFERENCE CAPTURE ON IDS                        |     |      |       |
|                       |            |   |     |      |       |

|     |            |   |   |    |     |
|-----|------------|---|---|----|-----|
| 120 | 12/17/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |   |    |     |
| 119 | 01/10/2009 | DATE FORWARDED TO EXAMINER                      |   |    |     |
| 118 | 12/17/2008 | REQUEST FOR CONTINUED EXAMINATION (RCE)         |   |    |     |
| 117 | 01/10/2009 | DISPOSAL FOR A RCE / CPA / R129                 |   |    |     |
| 116 | 12/17/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |   |    |     |
| 115 | 12/17/2008 | WORKFLOW - REQUEST FOR RCE - BEGIN              |   |    |     |
| 114 | 10/24/2008 | FINISHED INITIAL DATA CAPTURE                   |   |    |     |
| 113 | 10/14/2008 | WORKFLOW - QUERY REQUEST - FINISH               |   |    |     |
| 112 | 09/26/2008 | EXPORT TO INITIAL DATA CAPTURE                  |   |    |     |
| 111 | 09/18/2008 | MAIL NOTICE OF ALLOWANCE                        | 6 |    | 101 |
| 111 | 09/18/2008 | MAIL NOTICE OF ALLOWANCE                        | 6 |    | 101 |
| 110 | 09/07/2008 | ISSUE REVISION COMPLETED                        |   |    |     |
| 110 | 09/07/2008 | ISSUE REVISION COMPLETED                        |   |    |     |
| 109 | 09/17/2008 | DOCUMENT VERIFICATION                           |   |    |     |
| 109 | 09/17/2008 | DOCUMENT VERIFICATION                           |   |    |     |
| 108 | 09/17/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED |   |    |     |
| 108 | 09/17/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED |   |    |     |
| 107 | 09/11/2008 | NOTICE OF ALLOWABILITY                          |   |    |     |
| 107 | 09/11/2008 | NOTICE OF ALLOWABILITY                          |   |    |     |
| 102 | 07/02/2008 | DATE FORWARDED TO EXAMINER                      |   |    |     |
| 102 | 07/02/2008 | DATE FORWARDED TO EXAMINER                      |   |    |     |
| 101 | 05/12/2008 | RESPONSE AFTER NON-FINAL ACTION                 |   | 63 | 99  |
| 101 | 05/12/2008 | RESPONSE AFTER NON-FINAL ACTION                 |   | 63 | 99  |
| 100 | 05/12/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED         |   |    |     |
| 100 | 05/12/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED         |   |    |     |
| 99  | 12/10/2007 | MAIL NON-FINAL REJECTION                        |   |    |     |
| 99  | 12/10/2007 | MAIL NON-FINAL REJECTION                        |   |    |     |
| 98  | 12/07/2007 | NON-FINAL REJECTION                             |   |    |     |
| 96  | 10/30/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED     |   |    |     |
| 95  | 10/30/2007 | REFERENCE CAPTURE ON IDS                        |   |    |     |
| 94  | 10/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED    |   |    |     |

|    |            |  |  |    |    |
|----|------------|--|--|----|----|
| 93 | 11/01/2007 | DATE FORWARDED TO EXAMINER                         |  |    |    |
| 92 | 10/30/2007 | REQUEST FOR CONTINUED EXAMINATION (RCE)            |  |    |    |
| 91 | 11/01/2007 | DISPOSAL FOR A RCE / CPA / R129                    |  |    |    |
| 90 | 10/30/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |    |    |
| 89 | 10/30/2007 | WORKFLOW - REQUEST FOR RCE - BEGIN                 |  |    |    |
| 88 | 10/08/2007 | PUBS CASE REMAND TO TC                             |  |    |    |
| 87 | 10/12/2007 | WORKFLOW - QUERY REQUEST - BEGIN                   |  |    |    |
| 86 | 09/17/2007 | EXPORT TO INITIAL DATA CAPTURE                     |  |    |    |
| 85 | 09/14/2007 | MAIL NOTICE OF ALLOWANCE                           |  |    |    |
| 84 | 09/12/2007 | ISSUE REVISION COMPLETED                           |  |    |    |
| 83 | 09/12/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED    |  |    |    |
| 82 | 09/12/2007 | DOCUMENT VERIFICATION                              |  |    |    |
| 81 | 08/17/2007 | NOTICE OF ALLOWABILITY                             |  |    |    |
| 77 | 06/26/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED        |  |    |    |
| 76 | 07/23/2007 | PARALEGAL TD ACCEPTED                              |  |    |    |
| 75 | 07/02/2007 | DATE FORWARDED TO EXAMINER                         |  |    |    |
| 74 | 06/26/2007 | RESPONSE AFTER NON-FINAL ACTION                    |  |    |    |
| 73 | 06/26/2007 | TERMINAL DISCLAIMER FILED                          |  |    |    |
| 72 | 06/26/2007 | REFERENCE CAPTURE ON IDS                           |  |    |    |
| 71 | 06/26/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |    |    |
| 70 | 06/26/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |    |    |
| 69 | 03/26/2007 | MAIL NON-FINAL REJECTION                           |  |    |    |
| 68 | 03/19/2007 | NON-FINAL REJECTION                                |  |    |    |
| 67 | 01/31/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED        |  |    |    |
| 66 | 01/31/2007 | MISCELLANEOUS INCOMING LETTER                      |  |    |    |
| 65 | 02/06/2007 | DATE FORWARDED TO EXAMINER                         |  |    |    |
| 64 | 01/31/2007 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE |  |    |    |
| 63 | 02/06/2007 | DATE FORWARDED TO EXAMINER                         |  |    |    |
| 62 | 01/31/2007 | REQUEST FOR CONTINUED EXAMINATION (RCE)            |  | 92 | 56 |
| 61 | 02/06/2007 | DISPOSAL FOR A RCE / CPA / R129                    |  |    |    |
|    |            | REQUEST FOR EXTENSION OF TIME - GRANTED            |  |    |    |

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|------|------------|--|--|---|----|
| 60   | 01/31/2007 |  |  |   |    |
| 59   | 01/31/2007 | REFERENCE CAPTURE ON IDS                           |  |   |    |
| 58.7 | 01/31/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |   |    |
| 58   | 01/31/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |   |    |
| 57   | 01/31/2007 | WORKFLOW - REQUEST FOR RCE - BEGIN                 |  |   |    |
| 56   | 07/31/2006 | MAIL FINAL REJECTION (PTOL - 326)                  |  |   |    |
| 55   | 07/24/2006 | FINAL REJECTION                                    |  |   |    |
| 54   | 05/15/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED        |  |   |    |
| 53   | 05/24/2006 | DATE FORWARDED TO EXAMINER                         |  |   |    |
| 52   | 05/15/2006 | RESPONSE AFTER NON-FINAL ACTION                    |  |   |    |
| 51.7 | 05/15/2006 | ELECTRONIC INFORMATION DISCLOSURE STATEMENT        |  |   |    |
| 51   | 05/15/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |   |    |
| 50   | 02/15/2006 | MAIL NON-FINAL REJECTION                           |  |   |    |
| 49   | 02/13/2006 | NON-FINAL REJECTION                                |  |   |    |
| 48   | 01/06/2006 | DATE FORWARDED TO EXAMINER                         |  |   |    |
| 47   | 01/03/2006 | APPEAL BRIEF FILED                                 |  |   |    |
| 46   | 01/03/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED            |  |   |    |
| 45   | 08/29/2005 | NOTICE OF APPEAL FILED                             |  | 4 | 44 |
| 44   | 05/25/2005 | MAIL FINAL REJECTION (PTOL - 326)                  |  |   |    |
| 43   | 05/24/2005 | FINAL REJECTION                                    |  |   |    |
| 42   | 04/15/2005 | REFERENCE CAPTURE ON IDS                           |  |   |    |
| 41.7 | 04/15/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |   |    |
| 41   | 04/15/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |  |   |    |
| 40   | 04/21/2005 | DATE FORWARDED TO EXAMINER                         |  |   |    |
| 39   | 04/15/2005 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE |  |   |    |
| 38   | 04/21/2005 | DATE FORWARDED TO EXAMINER                         |  |   |    |
| 37   | 04/15/2005 | REQUEST FOR CONTINUED EXAMINATION (RCE)            |  | 2 | 34 |
| 36   | 04/21/2005 | DISPOSAL FOR A RCE / CPA / R129                    |  |   |    |
| 35   | 04/15/2005 | WORKFLOW - REQUEST FOR RCE - BEGIN                 |  |   |    |
| 34   | 01/13/2005 | MAIL FINAL REJECTION (PTOL - 326)                  |  |   |    |

|      |            |  |     |    |    |
|------|------------|--|-----|----|----|
| 33   | 01/12/2005 | FINAL REJECTION                                    |     |    |    |
| 32   | 12/06/2004 | REFERENCE CAPTURE ON IDS                           |     |    |    |
| 31.7 | 12/06/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 31   | 12/06/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 30   | 12/17/2004 | DATE FORWARDED TO EXAMINER                         |     |    |    |
| 29   | 12/06/2004 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE |     |    |    |
| 28   | 12/17/2004 | DATE FORWARDED TO EXAMINER                         |     |    |    |
| 27   | 12/06/2004 | REQUEST FOR CONTINUED EXAMINATION (RCE)            |     | 33 | 22 |
| 26   | 12/17/2004 | DISPOSAL FOR A RCE / CPA / R129                    |     |    |    |
| 25   | 12/06/2004 | REQUEST FOR EXTENSION OF TIME - GRANTED            |     |    |    |
| 24   | 12/06/2004 | WORKFLOW INCOMING AMENDMENT IFW                    |     |    |    |
| 23   | 12/06/2004 | WORKFLOW - REQUEST FOR RCE - BEGIN                 |     |    |    |
| 22   | 08/03/2004 | MAIL FINAL REJECTION (PTOL - 326)                  |     |    |    |
| 21   | 08/02/2004 | FINAL REJECTION                                    |     |    |    |
| 20   | 07/07/2004 | IFW TSS PROCESSING BY TECH CENTER COMPLETE         |     |    |    |
| 19   | 07/07/2004 | DATE FORWARDED TO EXAMINER                         |     |    |    |
| 18   | 06/04/2004 | RESPONSE AFTER NON-FINAL ACTION                    |     |    |    |
| 17   | 03/01/2004 | REFERENCE CAPTURE ON IDS                           |     |    |    |
| 16   | 06/04/2004 | WORKFLOW INCOMING AMENDMENT IFW                    |     |    |    |
| 15.7 | 03/01/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 15   | 03/01/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 14   | 03/04/2004 | MAIL NON-FINAL REJECTION                           | 379 |    | -1 |
| 13   | 03/03/2004 | NON-FINAL REJECTION                                |     |    |    |
| 12   | 02/17/2004 | CASE DOCKETED TO EXAMINER IN GAU                   |     |    |    |
| 11.7 | 06/09/2003 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 11   | 06/09/2003 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 10.7 | 05/24/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
| 10   | 05/24/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED       |     |    |    |
|      |            |  |     |    |    |



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|---|------------|--|--|--|--|
| 9 | 06/12/2002 | CASE DOCKETED TO EXAMINER IN GAU   |  |  |  |
| 8 | 05/01/2002 | APPLICATION DISPATCHED FROM OIPE   |  |  |  |
| 7 | 04/30/2002 | APPLICATION IS NOW COMPLETE  |  |  |  |
| 6 | 04/08/2002 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM   |  |  |  |
| 5 | 04/08/2002 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC |  |  |  |
| 4 | 01/30/2002 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED  |  |  |  |
| 2 | 01/03/2002 | IFW SCAN & PACR AUTO SECURITY REVIEW   |  |  |  |
| 1 | 12/19/2001 | INITIAL EXAM TEAM NN   |  |  |  |

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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